

Decision

Dispute Codes: MNSD

Introduction

This hearing dealt with the tenant's application for the double return of the security deposit. The tenant participated in the hearing and gave affirmed testimony.

The tenant testified that she served the landlord with the application for dispute resolution and notice of hearing by way of registered mail. However, despite this, the landlord did not appear.

Issue to be decided

- Whether the tenant is entitled to the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the tenancy began on April 1, 2008. When tenancy began, monthly rent was \$575.00 and was due and payable on the first day of each month. At the end of tenancy, monthly rent was \$595.00. A security deposit of \$287.50 was collected at the outset of tenancy. While a move-in condition inspection and report were completed at the start of tenancy, the tenant testified that she was never provided with a copy of the report.

On July 31, 2010 the tenant gave written notice of her intent to end the tenancy effective August 31, 2010. While the landlord's agent (the resident manager) attended the unit on or about August 30, 2010 in order to complete a move-out condition inspection and report with the tenant, the tenant testified that the landlord's agent expressed concern about the level of cleanliness in the unit, appeared rushed, and stated that she would return later to complete the condition inspection. However, the tenant testified that she was unable to wait around at the unit for an indefinite period of time and left without seeing the landlord's agent again.

On or about September 1, 2010, the tenant left the unit keys and her forwarding address at the landlord's agent's unit. Subsequently, on or about September 17, 2010, the tenant received a cheque in the mail for \$106.73. This reflects the landlord's calculation of interest of \$3.23, in addition to the balance of the security deposit of \$103.50, after the landlord had deducted \$184.00 from the security deposit as follows:

\$45.00: cleaning

\$80.00: carpet cleaning

\$9.00: cleaning materials

\$50.00: furniture removal

Total: \$184.00

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

The attention of the parties is drawn to the following particular sections of the Act:

Section 23: Condition inspection: start of tenancy or new pet

Section 24: Consequences for tenant and landlord if report requirements not met

Section 35: Condition inspection: end of tenancy

Section 36: Consequences for tenant and landlord if report requirements not met

Section 38: Return of security deposit and pet damage deposit

Sections 24 and 36 of the Act provide, in part, that the right of the landlord to claim against the security deposit is extinguished if the landlord “does not complete the condition inspection report and give the tenant a copy of it in accordance with the regulations.”

Section 38 of the Act provides that the landlord must pay the tenant double the amount of the security deposit if the landlord has not either, repaid the tenant's security deposit, or filed an application for dispute resolution within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing.

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that a copy of the move-in condition inspection report was not given to the tenant, and that a copy of the move-out condition inspection report was not given to the tenant. I also find that the tenant did not provide the landlord with written consent to withhold any portion of the security deposit and, further, that the landlord did seek to retain a portion of the security deposit by filing an application for dispute resolution.

Following from the above, I find that the tenant has established entitlement to double the return of a portion of her security deposit, plus some additional interest calculated as follows:

\$575.00 (original security deposit of \$287.50 x 2)

\$3.24 (interest on \$287.50 from April 1, 2008 to January 24, 2010)

Sub-total: \$578.24 (\$575.00 + \$3.24)

\$471.51 (balance remaining: \$578.24 - \$106.73)

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$471.51**. Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court and enforced as an order of that Court.

DATE: January 24, 2011

Dispute Resolution Officer